UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

        Plaintiff,

    v.   Case No. 04-CR-245

TROY BURTON,

        Defendant.

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ORDER

On April 15, 2005, this court sentenced Troy Burton to 180 months' imprisonment for violations of 18 U.S.C. § 922(g)(1) and 924(e)(1). Burton's total offense level was 33 and he had a criminal history score of IV; under this matrix, his advisory guideline range of imprisonment was 188-235 months.

On November 1, 2007, the United States Sentencing Commission amended the advisory federal sentencing guidelines for criminal offense involving crack cocaine. On December 11, 2007, the Sentencing Commission further decided that, effective March 3, 2008, these amended guidelines would apply retroactively to all offenders who were sentenced under the previous versions of the sentencing guidelines and who are presently incarcerated. The practical effect of these amendments is that pursuant to the provisions of 18 U.S.C. § 3582(c)(2), defendants previously convicted of offenses involving crack cocaine may be eligible for a reduction in their sentence.
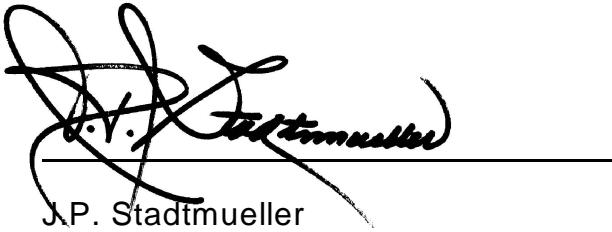
On July 9, 2008, Burton filed a pro se motion to reduce his sentence pursuant to § 3582(c)(2). Having considered Burton's motion, together with an analysis from the United States Probation Office and input from the United States Attorney's Office, the court concludes that his motion must be denied. Burton was sentenced as an Armed Career Criminal, and a reduction pursuant to § 3582(c)(2) would not be appropriate as his sentence range has not been lowered by the Sentencing Commission pursuant to 28 U.S.C. § 994(o). A reduction would be inconsistent with the applicable policy statements issued by the Sentencing Commission and the court is obliged to deny his motion.

Accordingly,

IT IS ORDERED that Burton's motion for a reduction in sentence (Docket #71) be and the same is hereby **DENIED**.

Dated at Milwaukee, Wisconsin, this 12th day of August, 2008.

BY THE COURT:

J.P. Stadtmueller
U.S. District Judge